

REMARKS

I. Status of the Claims

By the above amendment, claims 1, 3, 5-8, 10, and 18 are amended. Further, claim 14 is canceled. Accordingly, upon entry of this amendment, claims 1-13 and 18-20 will be pending. Applicant believes no new matter has been added by these changes. Favorable reconsideration and allowance of the claims are respectfully requested.

II. Rejections under 35 U.S.C. § 101

Claim 5-7 are rejected under 35 U.S.C. §101 as being allegedly directed to non-statutory subject matter. In these claims, the term “machine” has been replaced with “computer”. Further, “machine-readable medium” has been changed to “computer-readable medium.” Applicant asserts that the claims are directed to statutory subject matter. Accordingly, withdrawal of this rejection is respectfully requested.

III. Rejections under 35 U.S.C. §§ 102 and 103

Claims 1-13 and 15-20 are rejected under 35 U.S.C. § 102(e) as being allegedly anticipated by U.S. Patent Application Publication No. 2002/0124252 to Schaefer et al. (“Schaefer”). Also, dependent claim 14 is rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over Schaefer (as applied to independent claim 8) in view of U.S. Patent Application Publication No. 2004/0117831 to Ellis et al. (“Ellis”). Applicant respectfully requests reconsideration for at least the following reasons.

As a result of the above amendment, each of independent claims 1, 5, 8, and 18 recites features involving the transmission of two or more notification requests. For instance, claim 1 recites a first request and a second request. The first request occurs at a first time prior to transmission of content to a user, while the second request occurs at a second subsequent time after transmission of the content to the user. Applicant asserts that such features are neither taught nor suggested by Schaeffer and Ellis (alone or in combination).

Dependent claim 14 (now canceled) originally recited such a feature. On page 11 of the Office Action, the Examiner asserts that Ellis discloses this feature at paragraph [0149]. Applicant respectfully disagrees. This portion of Ellis fails to disclose the transmission of first and second requests based on *whether content has been transmitted to a user*, as recited in independent claims 1, 5, 8, and 18.

Instead, as relied upon by the Examiner, Ellis merely discloses requests first and second requests being transmitted based on whether content has been recorded. Moreover, Ellis fails to disclose such recording occurring at a user. Instead, such recording is disclosed in paragraph [0149] of Ellis as occurring remotely from a user. For instance, paragraph [0149] discloses recording occurring at servers, at a television distribution facility, and so forth. Thus, Ellis fails to disclose or suggest these features of the pending claims.

For at least these reasons, Applicant respectfully requests that the outstanding rejections under 35 U.S.C. §§ 102 and 103 be withdrawn.

Further, Applicants do not otherwise concede the correctness of the Office Action's rejection with respect to any of the claims. Accordingly, Applicants hereby reserve the right to make additional arguments as may be necessary to further distinguish the claims from the cited

references, taken alone or in combination, and based on additional features contained in the claims that were not discussed above. A detailed discussion of these differences is believed to be unnecessary at this time in view of the basic differences in the independent claims pointed out above.

IV. Conclusion

It is believed that claims 1-13 and 18-20 are in allowable form. Accordingly, a timely Notice of Allowance to this effect is earnestly solicited.

The Examiner is respectfully requested to contact the undersigned by telephone if such contact would further the examination of the present patent application.

Respectfully submitted,

KACVINSKY LLC

/John A. Harroun/
John A. Harroun, Reg. No. 46,339
Under 37 CFR 1.34

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